

Instrument prepared by:

VIRGINIA GAS AND OIL BOARD

Order recorded under:

CODE OF VIRGINIA**§ 45.1-361.26****VIRGINIA:****BEFORE THE GAS AND OIL BOARD****APPLICANTS:**CNX Gas Company LLC on behalf of Bernie Darin Dye and
H.C. Bostic Coal Companies.**DOCKET NO.****01-0821-0916-01****RELIEF
SOUGHT:**

Issuance: A Supplemental Order for Disbursement of Escrowed Funds
 Action: Amending Prior Orders Affecting Drilling **AY-114**,
Tract 4 (a portion thereof)
 (Referenced herein as "the Subject Drilling Unit")

Location: **Russell County, Virginia**

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit **AY-114** by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling Unit's Escrow Subaccount for **VGOB Tract(s) identified in Table 1.**

REPORT OF THE BOARD**FINDINGS AND ORDER**

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on October 19, 2010 at the Russell County Government, Conference Center, and 139 Highland Drive in Lebanon, VA.
2. **Appearances:** Mr. Mark A Swartz, Attorneys at Law, Swartz Law Offices PLLC appeared for the Unit Operator; and Sharon M.B. Pigeon, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account, with tract sub accounts, for each of the coalbed methane gas drilling units established by the Board through its field rules that are subject to a Board pooling order. Further, the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow tract sub accounts. The Board finds that: (1) while it **does not** have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, and (2) while it **does not** have jurisdiction to interpret agreements by and between the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements, (3) pursuant to Va. Code § 45.1-361.22.A.5, **the Board does have jurisdiction and authority to disburse funds from the Escrow Account** provided the Board has been provided with a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting

claimants or an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein.

4. **Prior Proceedings:**

- 4.1. On August 21, 2001 the Board executed its order pooling interests in the Subject Drilling Unit for the production of occluded natural gas produced from coalbeds and rock strata associated therewith (herein "Gas") in accordance with the provisions of Va. Code SS 45.1-361.21 and 45.1-361.22 (herein "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Russell County on January 10, 2002, Deed Book 544, and Pages 503 to 524, Instrument Number 0000172. The Board executed its Supplemental Order Regarding Elections that was filed with the Clerk of the Circuit Court of Russell County on February 4, 2004, Deed Book 602, and Pages 061 to 074.
- 4.2. To the extent claims to the Gas were in conflict, pursuant to Va. Code S 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony, the coal estate ownership interests of H. C. Bostic Coal Company and the gas ownership interests of the Bernie Darin Dye in Tract 4 in the Subject Drilling Unit were Unknown/Unlocatable and became subject to the escrow requirements of the Pooling Order.
- 4.3. The Unit Operator's Miscellaneous Petition regarding Tract 4, a copy of which is attached to and made a part hereof, states under oath that H. C. Bostic Coal Company had an interest in Tract 4 and has over time had funds paid into escrow and that Bernie Darin Dye was an Unknown/Unlocatable who is now known and located. Based on testimony, both have gas interest ownership in a portion of Tract 4. Because of these circumstances escrowing is no longer required.
- 4.4. The Unit Operator gave notice to H. C. Bostic Coal Company has funds in escrow and Bernie Darin Dye is now known and located, and that the Board would receive and hear testimony under oath and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to a portion of Tract 4 identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 4 relative to the interests of Applicants identified in the miscellaneous petition in the Escrow Account, and (3) continue the escrow account under this docket number because there are other parties under this order subject to continued payments in the escrow.
- 4.5. The Unit Operator filed the Circuit Court's Final Order in Civil Action CL10-155 and the attached accounting for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

5. **Findings:**

5.1. **Va. Code 45.1-361.22.5 provides:**

*The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) **a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them** or (ii) **an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein**. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.*

5.2 Applicant has certified and represented to the Board that:

- (1) H. C. Bostic Coal Company has funds previously deposited into escrow and Bernie Darin Dye is now known and located, both having a gas interest in a portion of Tract 4 of the Subject Drilling Unit AY-114;
- (2) Net interests attributable and to be disbursed to Applicants are shown in **Table 1**,

VGOB Approved Disbursement
01-0812-0916-01 Disbursement
Unit AY 114

Item No	Tract		Fractional Ownership in Tract	Acreage Interest Disbursed	Split Agreement	Escrowed Acres Total	% of Escrowed Funds
						16.9702	
	4	John H Dye Heirs	27.980000				
1	4	H. C. Bostic Coal Co / P.O. Box 220 / Swords Creek, VA 24649	1/5	5.5960	73.9583%	4.139	24.3880%
2	4	Bernie Darin Dye / 1287 Strouth Creek / Swords Creek, VA 24649	1/5	5.5960	26.0417%	1.457	8.5873%

6. Relief Granted:

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to, within 10 days of receipt of this executed order to disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing conflicting owners subject to escrow, is deleted and replaced with the Exhibit EE attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, and, because there are **other** owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to continue the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. Conclusion:

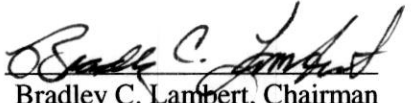
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED**.

8. Appeals:

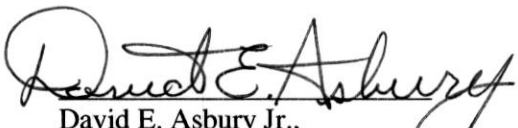
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

9. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 17 day of Dec, 2010 by a majority of the Virginia Gas and Oil Board.

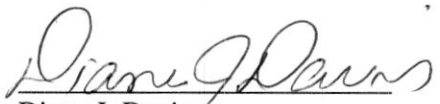

Bradley C. Lambert, Chairman

DONE AND PERFORMED this 17 day of Dec, 2010 by an Order of this Board.


David E. Asbury Jr.,
Principal Executive to the Staff
Virginia Gas and Oil Board

**COMMONWEALTH OF VIRGINIA)
COUNTY OF RUSSELL**

Acknowledged on this 17th day of December, 2010, personally before me a notary public in and for the Commonwealth of Virginia, appeared **Bradley C. Lambert**, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and **David E. Asbury Jr.**, being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.


Diane J. Davis
Notary Public #174394

My commission expires: 09 / 30 / 2013



PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL

DOCKET NO: VGOB 01-0821-0916-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING A PORTION OF TRACT(S) 4
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES

HEARING DATE: October 19, 2010

DRILLING UNIT: AY-114

RUSSELL COUNTY, VIRGINIA

MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Boulevard, Bluefield, West Virginia 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, **SWARTZ LAW OFFICES, PLLC.**, 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.

2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to a portion of Tract(s) 4 as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the party/parties listed is attributable to due diligence efforts: Bernie Darin Dye and H.C. Bostic Coal Company

3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

4. **Type of well(s):** Coalbed methane.

5. **Factual basis for relief requested:** Royalties attributable to Bernie Darin Dye and H.C. Bostic Coal Companies interest that can be released is attributable to due diligence efforts. The Applicant and Designated Operator are also requesting that they be allowed to pay royalties directly to Bernie Darin Dye and H.C. Bostic Coal Company. The annexed Exhibit A, further specifies how said royalties are to be paid.

6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

CNX GAS COMPANY LLC
BY ITS PROFESSIONAL MANAGER
CNX GAS COMPANY LLC, PETITIONER

By: 

Anita D. Duff
Pooling Supervisor
CNX Land Resources, Inc.
2481 John Nash Blvd.
Bluefield, West Virginia 24701

1100172

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF RUSSELL COUNTY, 1-20, 2011. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 12:55 o'clock P.M. after payment of \$ tax imposed by Sec. 58.1-802.

TESTE: ANN S. McREYNOLDS, CLERK
BY:  D. CLERK
Original returned this date to: Diane Davis



PROPERTY LINES SHOWN WERE TAKEN FROM MAPS PROVIDED
BY CNX LAND RESOURCES, Inc. AND WERE NOT SURVEYED.

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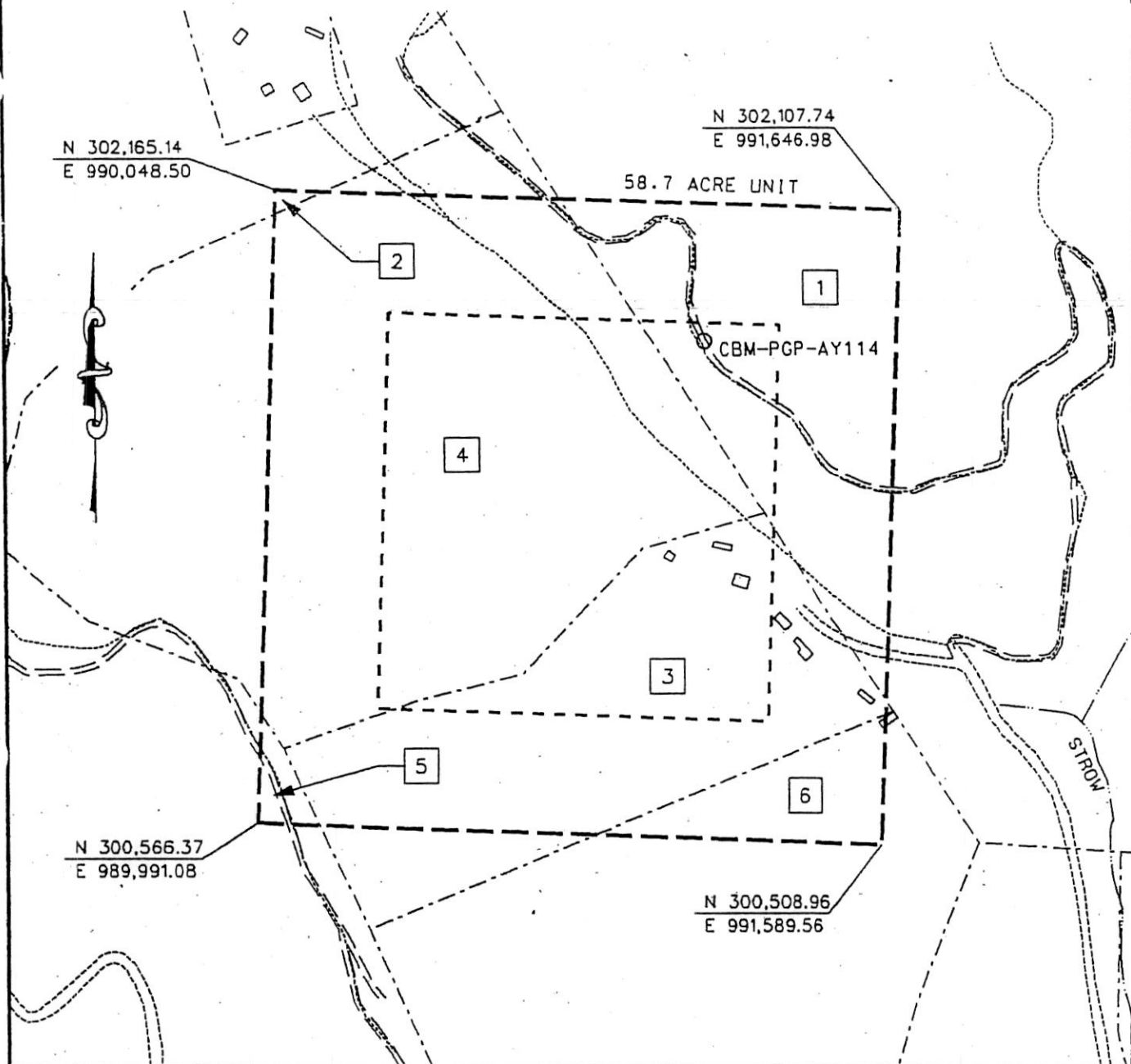


EXHIBIT A
MIDDLE RIDGE 1 FIELD
UNIT AY-114
FORCE POOLING
VGOB-01-0821-0916

Company Pocahontas Gas Partnership Well Name and Number UNIT AY-114
Tract No. _____ Elevation _____ Quadrangle Monaker
County Russell District New Garden Scale: 1" = 100' Date 7/16/01
This plat is a new plat X ; an updated plat _____ ; or original plat _____

Form DGO-GO-7
Rev. 9/91

Charles O. May
Licensed Professional Engineer or Licensed Land Surveyor

(Affix Seal)

POCAHONTAS GAS PARTNERSHIP

Unit AY-114

Tract Identifications
(58.7 Acre Unit)

1. Buckhorn Coal Company Tr. 7 - Fee
Consolidation Coal Company - Below Drainage Coal Leased
Sandy Ridge Energy Company - Above Drainage Coal Leased Except Kennedy Seam
H. C. Bostic Coal Company - Kennedy Seam Leased
Pocahontas Gas Partnership - CBM Leased
Reserve Coal Properties Company - Oil & Gas Leased
12.31 acres 20.9710 %
2. Buckhorn Coal Company (Corns & Fletcher Tract) - Coal
Sandy Ridge Energy Company - Above Drainage Coal Leased
Pocahontas Gas Partnership - CBM Leased
Heirs, Devisees, Successors or Assigns of B. W. Stras, et al. or Heirs, Devisees,
Successors or Assigns of S. J. Corn and Susan E. Corn or Heirs, Devisees,
Successors or Assigns of David Keene or Pocahontas Gas Partnership,
Swain & Renia Perkins or Pocahontas Gas Partnership and Dorothy Perkins - Oil & Gas
Dottie Gay Robinette Miller - Surface
0.09 acres 0.1533 %
3. Pocahontas Gas Partnership - Coal, Oil & Gas
Knox Creek Coal Corp. - Tiller and Above Coal Seams Leased (Except Upper Banner Seam)
Bernie D. Dye - Surface
15.02 acres 25.5878 %
4. John H. Dye Heirs, et al. - Surface, Coal, Oil & Gas
Knox Creek Coal Corp. - Unknown Tiller and Above Coal Seams Leased
Pocahontas Gas Partnership - 40% CBM, Oil & Gas Lessee
27.98 acres 47.6661 %
5. J. T. Helton Successors, et al. - Coal (Except for Pocahontas Coal)
J. T. Helton Successors, et al. - Pocahontas Coal
Arch Holland Dye or Successors, et al. - Oil & Gas
Margaret Lucille McGlothlin, et al. - Surface
0.55 acres 0.9370 %
6. Barbara Foote, et al. - Coal, Oil & Gas
Knox Creek Coal Corporation - Tiller and Above Coal Leased
Bernie D. Dye - Surface
2.75 acres 4.6848 %

Exhibit E
Unit AY-114
Docket #VGOB 01-0821-0916
List of Conflicting Owners/Claimants that require escrow

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	Acres in Unit	Interest in Unit	Percent of Escrow
<u>Tract #2, 0.09 acres</u>			
<u>COAL OWNERSHIP</u>			
(1) Buckhorn Coal Company P. O. Box 187 Tazewell, VA 24651	0.09 acres	0.1533%	
<u>OIL & GAS OWNERSHIP</u>			
* <i>Owner of gas interest is undetermined.</i> <i>Possible owners are listed below:</i>	0.09 acres	0.1533%	
(1) B.W. Stras, Heirs, Devisees Successors or Assigns, et al. <i>Address Unknown</i>			
(OR)			
(2) S. J. and Susan E. Corn, Heirs, Devisees Successors or Assigns, et al. <i>Address Unknown</i>			
(OR)			
(3) David Keene, Heirs, Devisees Successors or Assigns, et al. <i>Address Unknown</i>			
(OR)			
(4) Swain Perkins, et al.			
(1) Alta Perkins Heirs, Devisees, Successors or Assigns			
(a) Swain & Renia Perkins Rt.1 Box 136E Swords Creek, VA 24649	0.01 acres 1/10 of 0.09 acres	0.0153%	
(2) CNX Gas Company LLC 2481 John Nash Blvd. Bluefield, WV 24701	0.08 acres 9/10 of 0.09 acres	0.1380%	
(OR)			
(5) CNX Gas Company LLC 2481 John Nash Blvd. Bluefield, WV 24701	0.09 acres	0.1533%	
Dorothy Perkins 1595 Drybread Road Salysersville, KY 41465	0.09 acres	0.1533%	

Exhibit E
Unit AY-114
Docket #VGOB 01-0821-0916
List of Conflicting Owners/Claimants that require escrow

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	Acres in Unit	Interest in Unit	Percent of Escrow
<u>Tract #4, 27.98 acres</u>			
<u>COAL OWNERSHIP</u>			
John H. Dye Heirs, Devisees, Successors or Assigns, et al.	27.98 acres	47.6661%	
(2) <u>(Coal exc. Pocahontas Seam(s))</u>			
(a) H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	16.7880 3/5 of 27.98 acres	28.5997%	
(3) <u>(Pocahontas seam(s))</u>			
(a) Sam R. Dye Address Unknown	5.5960 1/5 of 27.98 acres	9.5332%	
(b) Larry Compton 5770 1st Road Bremen, IN 46506	0.3731 1/75 of 27.98 acres	0.6355%	
(c) Betty Snead Rt.3 Box 54 Lebanon, VA 24266	0.3731 1/75 of 27.98 acres	0.6355%	
(d) Robert Compton 4478 Island Road Bristol, TN 37620	0.3731 1/75 of 27.98 acres	0.6355%	
(e) Edna Peck Address Unknown	1.1192 1/25 of 27.98 acres	1.9066%	
(f) Ted Wilson Address Unknown	1.1192 1/25 of 27.98 acres	1.9066%	
(g) O'Dell Wilson Address Unknown	1.1192 1/25 of 27.98 acres	1.9066%	
(h) Narcie Dye Noel 766 Wysar Valley Rd. Honaker, VA 24260	1.1192 1/25 of 27.98 acres	1.9066%	
(i) Bernie Darin Dye 1287 Strouth Creek Swords Creek, VA 24649	5.5960 1/5 of 27.98 acres	9.5332%	
<u>OIL & GAS OWNERSHIP</u>			
John H. Dye Heirs, Devisees, Successors or Assigns, et al.	27.98 acres	47.6661%	
(2) <u>(Pocahontas Seam(s))</u>			
(a) Bernie Darin Dye 1287 Strouth Creek Swords Creek, VA 24649	5.5960 1/5 of 27.98 acres	9.5332%	32.9764% Pay Coal in Pocahontas Seam 26.0417%

NOTE: 1/5 of 2/5 will be paid out in escrow.

Exhibit E
Unit AY-114
Docket #VGOB 01-0821-0916
List of Conflicting Owners/Claimants that require escrow

	Acres in Unit	Interest in Unit	Percent of Escrow
(3) <u>(Coal exc. Pocahontas Seam(s))</u>			
(a) H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	5.5960 1/5 of 27.98 acres	9.5332%	32.9764% Pay Coal <u>excluding</u> Pocahontas Seam 73.9583%
(3) <u>(Coal exc. Pocahontas Seam(s))</u>			
(a) H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	5.5960 1/5 of 27.98 acres	9.5332%	

Tract #5, 0.55 acres

Note: Escrow due to unknown or unlocatable

COAL OWNERSHIP

(1) J.T. Helton Heirs, Devisees, Successors or Assigns, et al.	0.55 acres	0.9370%
(a) J.T. Helton Heirs, Devisees, Successors or Assigns Address Unknown	0.0306 acres 5.56% of 0.55 acres	0.0521%
(b) Arch Holland Dye Heirs, Devisees, Successors or Assigns Address Unknown	0.0611 acres 11.11% of 0.55 acres	0.1041%

OIL & GAS OWNERSHIP

(1) Arch Holland Dye Heirs, Devisees, Successors or Assigns, et al.	0.55 acres	0.9370%
(a) J.T. Helton Heirs, Devisees, Successors or Assigns Address Unknown	0.0306 acres 5.56% of 0.55 acres	0.0521%
(b) Arch Holland Dye Heirs, Devisees, Successors or Assigns Address Unknown	0.0611 acres 11.11% of 0.55 acres	0.1041%

Exhibit A **Tract-by-Tract Escrow Calculation** **Account Balances as of 7/31/10**

Unit AY114
VGOB # 01-0821-0916-01
Acres Escrowed: 16.9697

Owners		Tract #	Acres	Owner Acres	Interest	% Coal Exc. Pocahontas	% Pocahontas Seam	Amount Due Owners
John H. Dye Heirs - Oil & Gas		4	16.7880 27.98					
H.C. Bostic Coal Company (Coal Except Poc Seams, O&G)				5.59600	1/5	24.3888%		\$16,587.42
Bernie Darin Dye (Pocahontas Seam & OG)				5.59600	1/5		8.5876%	\$5,840.65

AY114

Wells contributing to the escrow account:

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Virginia Information Technologies Agency



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Add contacts to your address book

Email Address**Status** = Already in Address Book

AnitaDuty@consolenergy.com



dldavis@firstbank.com



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hilareymullins@consolenergy.com



jwilliams@firstbank.com



mswartz@swartzlawoffices.com

